UNITED NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/SR.1864
1 August 2000

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Sixty-ninth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1864th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 26 July 2000, at 3 p.m.

Chairperson: Mr. AMOR
(Vice-Chairperson)
later: Ms. MEDINA QUIROGA
(Chairperson)

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1864/Add.1.

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GE.00-43538 (E)

In the absence of Ms. Medina Quiroga (Chairperson), Mr. Amor (Vice-Chairperson) took the Chair.

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

1. Mr. WIERUSZEWSKI asked if it would be permissible to add a further question to the list of issues for Uzbekistan, namely to ask the Government to outline the position with regard to visits by the Special Rapporteurs and Working Groups of the Commission on Human Rights. Was the Government prepared to facilitate such visits under the special procedures mechanism?

2. Ms. EVATT urged Mr. Wieruszewski to link the question to compliance with the Covenant and to special thematic issues.

3. The CHAIRPERSON requested Mr. Wieruszewski to formulate a question, circulate it for amendment and then submit it for adoption.

Draft list of issues to be taken up in connection with the consideration of the third and fourth periodic reports of Trinidad and Tobago (CCPR/C/TTO/99/3; CCPR/C/70/Q/TTO/2)

4. Lord COLVILLE, introducing the draft list of issues (CCPR/C/70/Q/TTO/2), said that he would be happy to accept oral amendments proposed by members. He would explain the amendments already submitted when the question concerned was discussed.

Question 1

5. Lord COLVILLE said that the question should be expanded by inserting the words "on carrying out the death penalty" after "time limits". Mr. Henkin had suggested "cogent" instead of "valid", but he personally preferred valid, because it was a matter of domestic law, rather than public international law.

6. Mr. HENKIN said that, in his opinion, reasons adduced for denunciation did not have to be valid, because there was a right to denounce, but he would not insist. The word "how" should be deleted.

7. Question 1, as amended, was adopted.

Question 2

8. Lord COLVILLE proposed that the first three words should be deleted, the point being that the part of the Constitution which dealt with the Bill of Rights was silent on the matter of discrimination. As the country had denounced the Optional Protocol, he wished to know what remedies existed.

9. Mr. SCHEININ said that the amendment was an improvement, but he was concerned at the reference to the specific articles. If the purpose of the question was to focus on non-discrimination, the articles mentioned should be 2 (1), 3 and 26.

10. Lord COLVILLE said that he had originally drafted the text in terms of remedies and had therefore alluded to article 2 (3), but was happy to accept Mr. Scheinin's proposal.

11. Question 2, as amended, was adopted.

Question 3

12. Lord COLVILLE explained that Trinidad and Tobago had not provided any information about follow-up to communications on the cases listed in paragraph 461 of the 1999 report. His question was designed to elicit a response.

13. Question 3 was adopted.

Question 4

14. Lord COLVILLE said that he wished to delete the question because the Trinidadian Government had recently supplied an explanation and so the question was superfluous.

15. Question 4 was deleted.

Question 5

16. Question 5 was adopted.

Question 6

17. Lord COLVILLE said that in 1991 and 1993, the Trinidadian Government had asked two commissions from the United Kingdom to assist it in improving police training and standards of behaviour. Two reports had been produced, but he had not received a copy of either. He would change "How many" to "Which". To the best of his knowledge, absolutely no action whatsoever had been taken on the recommendations.

18. Question 6, as amended, was adopted.

Question 7

19. Question 7 was adopted.

Question 8

20. Mr. SOLARI YRIGOYEN said that he was worried about all forms of corporal punishment, not just flogging and whipping. It was a well-known fact that flogging and

whipping were still on the statute book and that corporal punishment was also recommended as the penalty for drug offenders and serial sex offenders. He therefore welcomed the question.

21. The CHAIRPERSON proposed that the question should be couched in more general terms, along the lines: "What measures are being contemplated by the authorities of Trinidad and Tobago to end corporal punishment, in particular flogging (report, para. 106) and whipping (para. 200 (vi)) ...".

22. Lord COLVILLE disagreed, because the question referred to specific judicial sentences spelled out in the specific paragraphs of the report and they covered the full range of punishments mentioned by Mr. Solari Yrigoyen. It was therefore correct to ask the authorities when they were going to remove those penalties from the statute book. The requisite measures consisted in repealing those sections of the statutes which provided for such sentences. He wanted to know when it would happen.

23. Question 8 was adopted.

Question 9

24. Ms. CHANET pointed out that if Government was asked whether the remedies were sufficient, it would reply in the affirmative. It would be better to inquire what remedies existed, as none were mentioned in paragraph 139.

25. Lord COLVILLE explained that an appeal would not arise out of the Judges' Rules or Administration Directions, but out of statute law. Those instruments set standards of police behaviour which affected the admissibility of evidence obtained through a confession.

26. Ms. CHANET said that "sufficient" implied a value judgement. The question should be worded in terms of whether and to what extent the instruments complied with articles 7 and 9.

27. Lord COLVILLE suggested the formulation "In what way do the Judges' Rules and Administration Directions adopted in 1965 comply with the requirements of articles 7 and 9 in relation to persons in detention".

28. Question 9, as amended, was adopted.

Question 10

29. Ms. CHANET said that the word "operational" was ambiguous, since it could mean either "in operation" or "working well".

30. The CHAIRPERSON endorsed that view.

31. Lord COLVILLE proposed "Is the maximum security prison in full operation? In this and other prisons, how do the rules ...".

32. Question 10, as amended, was adopted.

Questions 11 and 12

33. Questions 11 and 12 were adopted.

Question 13

34. Lord COLVILLE said that the question had been expressed in that way because legal aid was provided in principle, but lawyers had recently gone on strike to protest because they were not being paid enough when they defended legal aid cases and so, in fact, no legal aid had been available.

35. Mr. HENKIN observed that it might be helpful to add a few words so that the question would read "Is legal aid in order to protect Covenant rights available and is it being properly funded?"

36. Question 13, as amended, was adopted.

Question 14

37. Lord COLVILLE suggested the deletion of the whole of the second sentence. When he had drafted the text, he had not had a copy of the Equal Opportunities Bill. He had since received one and could see that the Tribunal took the form of a court of record. The second sentence was therefore redundant. It was, however, necessary to ask if the Bill had been passed and brought into force, and why it had been amended so as to exclude discrimination on grounds of sexual orientation. He proposed: "Has the Equal Opportunities Bill of 1998 been passed by Parliament and brought into force?"

38. The CHAIRPERSON proposed "Has the Equal Opportunities Bill of 1998 been adopted? Why was the Bill amended so as to exclude discrimination on grounds of sexual orientation?"

39. Lord COLVILLE said that the difficulty in finding appropriate wording stemmed from a cultural difference. His formulation made perfect sense in a common-law jurisdiction. Bills were often not brought into force until some time after their enactment. Then he wished to know why the Government had agreed to the amendment. The phraseology did make sense and was perfectly clear in the context in which the Government of Trinidad and Tobago would read it.

40. Mr. SOLARI YRIGOYEN said that he understood Lord Colville's concern and was equally worried about the amendment, because sexual relations between adult homosexuals were illegal in Trinidad and Tobago. If the bill had not been amended, it would have ended a situation which was incompatible with the Covenant. The Committee was therefore confronted with two problems: a violation of the Covenant and the form taken by the Equal Opportunities Tribunal.

41. Mr. BHAGWATI pointed out that, as Trinidad and Tobago was a common-law country, it was necessary to ask two questions in order to discover whether the bill had been passed and whether it had subsequently come into force.

42. Mr. LALLAH said that the first sentence was sound and proposed that the second sentence should read "Why does the bill contain provisions to exclude discrimination on grounds of sexual orientation?"

43. The CHAIRPERSON considered that cultural sensitivities should be respected. He was still bothered by the formulation of the first question because, in continental law, the legislative process comprised four stages: adoption, promulgation, publication and entry into force. In French one could not speak of the implementation of a bill.

44. Lord COLVILLE proposed "Has the Equal Opportunities Act been passed by Parliament? Has the President by proclamation fixed a date by which it is to come into force and what is that date?"

45. Question 14, as amended, was adopted.

Question 15

46. Lord COLVILLE said that the wording had been amended so that the second sentence read "What improvements have been made by the Domestic Violence Act of October 1999 and how will this improve protection for women and children in conformity with articles 3 and 24 of the Covenant?"

47. Question 15, as amended, was adopted.

Question 16

48. Lord COLVILLE said that the question should be altered to: "How does the Constitution, Chapter I, Part III, ensure that emergency measures comply with the requirements imposed by article 4 ...". The reason behind the question was that they did not and the Committee should call for an explanation.

49. Question 16, as amended, was adopted.

Question 17

50. Lord COLVILLE suggested that the question should be reworded to read: "What provision exists for review of executive decisions on deportation in the circumstances set out in paragraph 188, as required by article 13?"

51. Mr. HENKIN suggested "review by the courts".

52. Lord COLVILLE explained that he wished to keep the question as general as possible. In fact, there was no judicial review of executive decisions in Trinidad and Tobago: the question was intended to encourage the delegation to discuss the issue as fully as possible.

53. Question 17, as amended, was adopted.

Questions 18 and 19

54. Lord COLVILLE said that questions 18 and 19 were intended to elicit more information about a long-running debate on proposed reforms of the law on the media. The issue had provoked street demonstrations and intense debate in Parliament and the media.

55. He suggested a new version of paragraph 18, to read: "Please comment on the proposals referred to in paragraph 232 and explain whether they will lead to a satisfactory balance between protecting persons' reputations from attack and freedom of expression".

56. Question 18, as amended, was adopted.

57. Lord COLVILLE suggested that question 19 should be reworded to read: "What proposals are there to legislate on the recommendations referred to in the Green Paper entitled 'Reform of the Media Law - Towards Free and Responsible Media'? Has account been taken of the need for any new law to be compatible with article 19? (paras. 244-245)". The change was intended to meet Mr. Henkin's misgivings about the term "responsible media", which might indicate an attempt to infringe freedom of speech.

58. Mr. SOLARI YRIGOYEN asked whether the Committee had received the text of the Green Paper. He was aware that journalists in Trinidad and Tobago were concerned about the lack of safeguards for freedom of speech. The Head of State had been invited to endorse the Declaration of Chapultepec, adopted by the Hemisphere Conference on Free Speech in 1994, but he had declined.

59. Lord COLVILLE said that, as far as he was aware, the Committee did not have a copy of the Green Paper, but it could request one before the report was considered. Paragraphs 244 and 245 of the report dealt with the text of the Green Paper and the public reaction to it.

60. Question 19, as amended, was adopted.

Question 20

61. Mr. SOLARI YRIGOYEN said that there was considerable discrimination against religious groups, especially those of African origin. He suggested wording similar to that used for question 14, namely: "Has the Miscellaneous Laws (Spiritual Reform) Bill, referred to in paragraph 238 in relation to discrimination against certain religious groups, been passed by Parliament and is it now in force?"

62. Question 20, as amended, was adopted.

Question 21

63. Lord COLVILLE said the question was intended to elicit information about access to public service posts, which was not mentioned in the report at all.

64. Question 21 was adopted.

Question 22

65. Question 22 was adopted.

66. The draft list of issues, as amended, was adopted.

67. Ms. Medina Quiroga (Chairperson) took the Chair.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Dates for the consideration of periodic reports

68. The CHAIRPERSON said that, if the Committee agreed, the next periodic report of Kuwait would be considered in 2004 and the next periodic report of Australia in 2005.

69. It was so decided.

The public part of the meeting rose at 4.05 p.m.